

# Limited Driving Privileges following DWI Convictions

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# What happens to a person's license upon conviction of DWI?

- NC DMV revokes the license of any driver convicted of impaired driving under G.S. 20-138.1
  - G.S. 20-17(a)(2)
- Revocation is for 1 year, 4 years, or is permanent
  - G.S. 20-19(c1), (d), (e)
  - Term depends on person's prior record
  - If sentenced at Level A1, revocation is permanent

# But what if the defendant really needs to drive?

- A defendant may apply for a limited driving privilege at sentencing or at some later time during the period of revocation
  - G.S. 20-179.3(c), (d)

# What is a limited driving privilege?

- NC DMV has exclusive power\* to issue, suspend, or revoke a person's North Carolina driver's license
  - \*for the most part
- General Assembly has given the courts the authority to issue limited driving privileges
  - These are judgments that authorize a person with a revoked driver's license to drive for essential purposes

# Who is eligible for a limited driving privilege under G.S. 20-179.3?

1. A person convicted of misdemeanor impaired driving in North Carolina, if
  - a) Sentenced at Level 3, 4 or 5
  - b) Revoked solely under G.S. 20-17(a)(2)
  - c) At the time of the offense, validly licensed or license had been expired for < 1 year
  - d) No DWI conviction within 7 years of offense
  - e) No subsequent DWI conviction or charge
  - f) Substance abuse assessment obtained and filed
  - g) Proof of insurance or exemption

# Who else is eligible?

2. A person whose **NC driver's license** is revoked
  - a) For a conviction in another jurisdiction that is substantially similar to DWI under G.S. 20-138.1
  - b) If he/she would have been eligible had the conviction occurred in NC

# Who is ***not*** eligible?

- A person who was under 21 at the time of the DWI offense
- Why?
- Person is revoked under two statutes
  - G.S. 20-17(a)(2) and
  - G.S. 20-13.2(b) (Conviction for DWI by person < 21)
- G.S. 20-179.3(e) requires that person's license be revoked ***solely*** under G.S. 20-17(a)(2)

# Processing fee

- Person must pay processing fee of \$100 upon issuance of a limited driving privilege (G.S. 20-20.2)
- Failure to pay the fee renders the privilege invalid
- *Note:* Civil costs apply to the filing of a petition for a limited driving privilege for a person convicted of DWI in another jurisdiction.



# What if privilege is improperly granted?

- Copies of all limited driving privileges that are issued must be sent to NC DMV
  - G.S. 20-179.3(k)
- If privilege is invalid, NC DMV must notify court and holder of privilege

# How long does limited privilege last?

- No longer than initial one-year revocation period
- If revocation is extended because NC DMV has not received certificate of completion of treatment or education recommended in substance abuse assessment,
  - limited driving privilege is ***not*** effective during extension
  - G.S. 20-17.6(e)

# What and where may person drive?

- Person may ***not*** drive a commercial motor vehicle (G.S. 20-17.5)
- May drive for essential purposes related to:
  - Employment
  - Household maintenance
  - Education
  - Court-ordered treatment or assessment
  - Community service as part of probation
  - Emergency medical care
  - Religious worship

# When may person drive?

- During standard working hours
  - 6 a.m. to 8 p.m. Monday through Friday
- Any time for emergency medical care
- Limited driving privilege may authorize driving during nonstandard working hours for purposes other than household maintenance
  - Documentation must be provided
  - Other limitations apply

# Alcohol restriction

- A limited driving privilege must prohibit the driver from consuming alcohol while driving and from driving at any time while alcohol remains in his/her body
- Must also prohibit driver from driving with a controlled substance in his/her body, unless substance was lawfully obtained and taken in therapeutically appropriate amounts

# High risk drivers

- Additional restrictions apply to defendants with BAC of 0.15 or more
  - G.S. 20-179.3(c1), (g5)
    1. Privilege not effective until at least 45 days after conviction
    2. Must restrict driving to a designated motor vehicle\*
    3. Must require that motor vehicle be equipped with ignition interlock, set to 0.00\*
    4. Must require that driver personally activate ignition interlock\*
    5. May allow driving only to and from work, school, court-ordered treatment or substance abuse education, and any ignition interlock service facility

\*Exception for employer-owned motor vehicles that person drives solely for work-related purposes

# Who may issue a limited driving privilege?

- Trial judge if judge is assigned to a court in the district in which conviction was imposed
- If trial judge is not available and conviction was in superior court,
  - senior resident superior court judge
- If trial judge is not available and conviction was in district court,
  - chief district court judge
- If convicted in another jurisdiction,
  - chief district court judge of district in which person resides